



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

CLAYTON HOWARD TISDALE,	§	
Plaintiff,	§	
	§	
vs.	§	CIVIL ACTION NO. 0:09-1009-HFF-PJG
	§	
SOUTH CAROLINA HIGHWAY PATROL	§	
and OFFICER RD TREVATHAN,	§	
Defendants.	§	

ORDER

This is a civil rights action filed under 42 U.S.C. § 1983. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the case be dismissed with prejudice pursuant to 28 U.S.C. § 1915(g). The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on May 1, 2009, but Plaintiff failed to file any objections to the Report. In the absence of such objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

In the Report, the Magistrate Judge denied Plaintiff's motion to proceed in forma pauperis and recommended that this action be dismissed if Plaintiff failed to timely pay the filing fee within ten days. Plaintiff failed to do so.

Thus, after a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that the case be **DISMISSED** *with prejudice* pursuant to 28 U.S.C. § 1915(g). In light of this disposition, Plaintiff's pending motion to appoint counsel [3] is rendered **MOOT**.

IT IS SO ORDERED.

Signed this 27th day of May, 2009, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within 30 days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.